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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,248	08/23/2005	Susumu Natsuyama	JCLA12555	6771

7590
J C Patents Inc
Suite 250
4 Venture
Irvine, CA 92618

03/21/2007

EXAMINER

HANDAL, KAITI V

ART UNIT	PAPER NUMBER
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1764

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/526,248

Applicant(s)

NATSUYAMA ET AL.

Examiner

Kaity Handal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/31/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witt et al. (US 5,779,995) in view Hirschfeld et al. (US 5,284,678).

With respect to claim 1, Witt teaches a fluidized bed apparatus (figure 1) comprising a processing container (1), a draft tube/central free flow chamber (3) arranged inside the processing container (1), and a disintegrator mechanism/agitator (4), the fluidized bed apparatus (1) being characterized in that a fluidizing gas introduced from a bottom portion/through gassing device (43) of the processing container (1) causes powder particles/sludge in the processing container (1) to form a fluidized bed in which the powder particles/sludge circulate so as to ascend through a space between an inner wall of the processing container (1) and the draft tube/central free flow chamber (3) (through passage pipes (21)) and descend through an inner portion of the draft tube/central free flow chamber (3)); and agglomerates of the powder particles descending through the inner portion of the draft tube/central free flow chamber (3) (as illustrated) are dispersed by the disintegrator mechanism.

Witt fails to show wherein said fluidized bed apparatus comprises a rotary rotor for sending the powder particles that have passed the disintegrator mechanism to an upward current of the fluidizing gas by centrifugal force. Hirschfeld teaches an apparatus for coating particles agitated by a rotatable rotor (fig. 1, 21) and a rotating circular disk (23) in order to give rise to a centrifugal force (col. 10, lines 13-14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a rotary rotor as part of Witt's disintegrator mechanism/agitator, as taught by Hirschfeld, in order to give rise to a centrifugal force.

With respect to claim 2, Witt teaches wherein said disintegrator mechanism/agitator (4) comprises an impeller/agitator blade (42) having a disintegrator blade (42).

With respect to claim 6, Witt teaches wherein said fluidized bed apparatus (fig. 1) comprises a spray nozzle/gassing device (43) (as illustrated).

With respect to claim 7, Witt teaches wherein said spray nozzle/gassing device (43) is arranged such that the spray nozzle/gassing device (43) can spray the spray solution to the powder particles/sludge that have passed the disintegrator mechanism/agitator (4) and blade (42).

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Witt et al. (US 5,779,995) in view Hirschfeld et al. (US 5,284,678), as applied to claim 1 above, and further in view of Hanify et al. (US 5,227,136).

With respect to claim 4, Witt discloses all claim limitations as set forth above but fails to show wherein said disintegrator mechanism comprises a rotor and a stator each having a plurality of concentrically arranged teeth. Hanify teaches an apparatus comprising a tank (figure 1), a mixer comprising rotor and a stator/arms (90) having teeth/diffusers (100) (abstract) in order to direct the gas/oxygen or air upwardly and outwardly into the sludge (col. 7, lines 46-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a rotor and a stator having a plurality of concentrically arranged teeth in Witt's apparatus, as taught by Hanify, in order to direct the gas/oxygen or air upwardly and outwardly into the sludge.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Witt et al. (US 5,779,995) in view Hirschfeld et al. (US 5,284,678), as applied to claim 2 above, and further in view of Stormo (US 5,779,996).

With respect to claim 3, Witt discloses all claim limitations as set forth above but fails to show wherein said disintegrator mechanism/agitator (4) further comprises a screen arranged at a predetermined gap from the disintegrator blade of the impeller. Stormo teaches an apparatus (fig. 5) for treating a slurry or solid particles comprising a disintegrator mechanism/stirrer blades (27) and a screen/filter (41) at a predetermined gap from the disintegrator blade (27) in order to prevent the solid particles in the slurry or suspension greater than the size of the screen openings from exiting the vessel (col. 7, lines 17-20).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a screen arranged at a predetermined gap from the disintegrator blade of the impeller in Witt's apparatus, as taught by Stormo, in order to prevent the solid particles in the slurry or suspension greater than the size of the screen openings from exiting the vessel.

Response to Arguments

Specification

Objection made to the specification is withdrawn by examiner due to applicant's amendment.

Prior Art

Applicant's arguments filed 12/12/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that "Witt does not disclose a fluidized bed apparatus used for coating processing or granulation processing of powder particles of the present invention", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Applicant argues on page 9 of the "Remarks" the following:

"Further in Witt, the circulating flow of the reacting mass is brought about by the agitator 4 with a central hollow shaft 41 and an agitator blade 42. That is, the agitator 4 conveys the reaction mass downward in the central flow chamber 3

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and produces an upward flow of the reaction mass is drawn out of the gas chamber in the upper part of the reaction container by means of intake opening 44 in the agitator shaft 41. In other words, the gas flowing into the upper part of the reaction container I is not for circulating of the reaction mass but for gassing the reaction mass. Therefore, Witt at least does not disclose the features as recited in independent claim 1."

Examiner respectfully disagrees. The claim uses "comprising" which is open transitional language and does not exclude a reference from having more elements than those recited in the instant claims.

The transitional phrases "comprising", "consisting essentially of" and "consisting of" define the scope of a claim with respect to what unrecited additional components or steps, if any, are excluded from the scope of the claim.

The transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. See, e.g., > Mars Inc. v. H.J. Heinz Co., 377 F.3d 1369, 1376, 71 USPQ2d 1837, 1843 (Fed. Cir. 2004) ("like the term comprising,' the terms containing' and mixture' are open-ended."); < Invitrogen Corp. v. Biocrest Mfg., L.P., 327 F.3d 1364, 1368, 66 USPQ2d 1631, 1634 (Fed. Cir. 2003) ("The transition comprising' in a method claim indicates that the claim is open-ended and allows for additional steps."); Genentech, Inc. v. Chiron Corp., 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997) ("Comprising" is a term of art used in claim language which means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim.); Moleculon Research Corp. v. CBS, Inc., 793 F.2d 1261, 229 USPQ 805 (Fed. Cir. 1986); In re Baxter, 656 F.2d 679, 686, 210 USPQ 795, 803 (CCPA 1981); Ex parte Davis, 80 USPQ 448, 450 (Bd. App. 1948) ("comprising" leaves "the claim open for the inclusion of unspecified ingredients even in major amounts"). >In Gillette Co. v. Energizer Holdings Inc., 405

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F.3d 1367, 1371-73, 74 USPQ2d 1586, 1589-91 (Fed. Cir. 2005), the court held that a claim to "a safety razor blade unit comprising a guard, a cap, and a group of first, second, and third blades" encompasses razors with more than three blades because the transitional phrase "comprising" in the preamble and the phrase "group of" are presumptively open-ended. "The word comprising' transitioning from the preamble to the body signals that the entire claim is presumptively open-ended." *Id.* In contrast, the court noted the phrase "group consisting of" is a closed term, which is often used in claim drafting to signal a "Markush group" that is by its nature closed. *Id.* The court also emphasized that reference to "first," "second," and "third" blades in the claim was not used to show a serial or numerical limitation but instead was used to distinguish or identify the various members of the group. *Id.* < MPEP 2111.03 [R-3]

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaity Handal whose telephone number is (571) 272-8520. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KH 

3/6/2007


Glenn Caldarola
Supervisory Patent Examiner
Technology Center 1700